

**REMARKS/ARGUMENTS**

***I. Status of the claims***

Claims 9-14 are pending. Claim 13 has been amended to correct a minor informality within the claim by expanding the abbreviated "FRET" to "fluorescence resonance energy transfer (FRET)". Support this amendment is found on page 14 of the specification under the heading "FRET hybridization probes" and no new matter has been added herewith.

***II. Obviousness-type double patenting rejection***

The only remaining rejection is an obviousness type double patenting rejection over claims 9-14 of U.S. Patent No. 6,691,041 ('041) in view of Lowe et al. (WO 99/54510). Applicants hereby submit a terminal disclaimer which disclaims the terminal portion of the term of a patent granted on the instant application over U.S. Patent No. 6,691,04. Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *See*, MPEP §804.02. Withdrawal of the rejection is respectfully requested.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Matthew E. Hinsch  
Reg. No. 47,651

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200 Fax: 415-576-0300  
Attachments  
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